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**State:** District of Columbia **Filing Company:** XL Insurance America, Inc.  
**TOI/Sub-TOI:** 17.0 Other Liability-Occ/Claims Made/17.0020 Commercial Umbrella and Excess  
**Product Name:** Umbrella/Excess  
**Project Name/Number:** Revision of Vermont Excess UM/UIM Endorsement/16WX-XW-UM03-MU-DC

## Filing at a Glance

Company: XL Insurance America, Inc.  
Product Name: Umbrella/Excess  
State: District of Columbia  
TOI: 17.0 Other Liability-Occ/Claims Made  
Sub-TOI: 17.0020 Commercial Umbrella and Excess  
Filing Type: Form  
Date Submitted: 11/07/2016  
SERFF Tr Num: XLAM-130798223  
SERFF Status: Assigned  
State Tr Num:  
State Status:  
Co Tr Num: 16WX-XW-UM03-MU-DC  
  
Effective Date: On Approval  
Requested (New):  
Effective Date: On Approval  
Requested (Renewal):  
Author(s): Allie Weisberg  
Reviewer(s): Angela King (primary)  
Disposition Date:  
Disposition Status:  
Effective Date (New):  
Effective Date (Renewal):

**State:** District of Columbia **Filing Company:** XL Insurance America, Inc.  
**TOI/Sub-TOI:** 17.0 Other Liability-Occ/Claims Made/17.0020 Commercial Umbrella and Excess  
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## General Information

Project Name: Revision of Vermont Excess UM/UIM Endorsement  
Project Number: 16WX-XW-UM03-MU-DC  
Reference Organization:  
Reference Title:  
Filing Status Changed: 11/10/2016  
State Status Changed:  
Created By: Allie Weisberg  
Corresponding Filing Tracking Number:

Status of Filing in Domicile:  
  
Domicile Status Comments:  
Reference Number:  
Advisory Org. Circular:  
  
Deemer Date:  
Submitted By: Allie Weisberg

### Filing Description:

XL Insurance America, Inc. is filing endorsement CUU 491 0716 to satisfy Vermont Uninsured Motorists coverage requirements. XL Catlin insures large national and international companies; therefore, Insureds domiciled in your state may have an auto exposure that would require this Vermont endorsement to be attached to the policy. This endorsement has been previously filed and approved in Vermont.  
If this form is not subject to your state's review or approval since it addresses Vermont Uninsured Motorist requirements, please consider this an informational filing.

## Company and Contact

### Filing Contact Information

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allison.weisberg@xlgroup.com  
610-968-2621 [Phone]

### Filing Company Information

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505 Eagleview Blvd.  
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Exton, PA 19341-0636  
(800) 327-1414 ext. [Phone]

CoCode: 24554  
Group Code: 1285  
Group Name:  
FEIN Number: 75-6017952

State of Domicile: Delaware  
Company Type:  
State ID Number:

## Filing Fees

Fee Required? No  
Retaliatory? No  
Fee Explanation:

|                             |                                                                             |                        |                            |
|-----------------------------|-----------------------------------------------------------------------------|------------------------|----------------------------|
| <b>State:</b>               | District of Columbia                                                        | <b>Filing Company:</b> | XL Insurance America, Inc. |
| <b>TOI/Sub-TOI:</b>         | 17.0 Other Liability-Occ/Claims Made/17.0020 Commercial Umbrella and Excess |                        |                            |
| <b>Product Name:</b>        | Umbrella/Excess                                                             |                        |                            |
| <b>Project Name/Number:</b> | Revision of Vermont Excess UM/UIM Endorsement/16WX-XW-UM03-MU-DC            |                        |                            |

## Form Schedule

| Item No. | Schedule Item Status | Form Name                                                | Form Number  | Edition Date | Form Type | Form Action | Action Specific Data | Readability Score | Attachments      |
|----------|----------------------|----------------------------------------------------------|--------------|--------------|-----------|-------------|----------------------|-------------------|------------------|
| 1        |                      | Vermont Excess Uninsured/Underinsured Motorists Coverage | CUU 491 0916 |              | END       | New         |                      |                   | CUU 491 0916.pdf |

### Form Type Legend:

|            |                                              |            |                                  |
|------------|----------------------------------------------|------------|----------------------------------|
| <b>ABE</b> | Application/Binder/Enrollment                | <b>ADV</b> | Advertising                      |
| <b>BND</b> | Bond                                         | <b>CER</b> | Certificate                      |
| <b>CNR</b> | Canc/NonRen Notice                           | <b>DEC</b> | Declarations/Schedule            |
| <b>DSC</b> | Disclosure/Notice                            | <b>END</b> | Endorsement/Amendment/Conditions |
| <b>ERS</b> | Election/Rejection/Supplemental Applications | <b>OTH</b> | Other                            |

Endorsement No.:

Effective Date:

Issue Date:

Attached to and forming part of Policy No.:

Issued To:

By:

## Vermont Excess Uninsured/Underinsured Motorists Coverage

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*This endorsement changes the policy. Please read it carefully.*

For a "Covered Auto" licensed or principally garaged in Vermont, this endorsement modifies insurance provided under the following:

### Commercial Umbrella Liability Policy

#### SCHEDULE

|                                                                                                        |
|--------------------------------------------------------------------------------------------------------|
| <b>Limit of Insurance:</b> \$ _____ <b>"Bodily Injury" and "Property Damage" Combined Single Limit</b> |
|--------------------------------------------------------------------------------------------------------|

**"Uninsured/Underinsured Motorist Retained Limit":** \$ \_\_\_\_\_

I. **SECTION I. INSURING AGREEMENTS** is amended to include the following additional provisions:

1. Subject to the Limit of Insurance shown in the Schedule of this endorsement, we will pay those sums the "Insured" is legally entitled to recover as compensatory damages in excess of the "Uninsured/Underinsured Motorist Retained Limit", from the owner or driver of an "Uninsured Motor Vehicle". The damages must result from "Bodily Injury" or "Property Damage" sustained by the "Insured" caused by an accident. The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "Uninsured Motor Vehicle".
2. Any judgment for damages arising out of a "Suit" brought without our written consent is not binding on us.
3. With respect to damages resulting from such an accident with a vehicle described in Paragraph 2. of the definition of "Uninsured Motor Vehicle", we will pay only if Paragraph a. or b. below applies:
  - a. The limit of any applicable liability bonds or policies have been exhausted by payment of judgments or settlements; or
  - b. A tentative settlement has been made between an "Insured" and the insurer of the vehicle described in Paragraph 2. of "Uninsured Motor Vehicle" and we:
    - i) Have been given prompt written notice of such tentative settlement; and
    - ii) Advance payment to the "Insured" in an amount necessary to equal the tentative settlement within thirty (30) days after receipt of notification.

II. **SECTION III. LIMITS OF INSURANCE** is amended to include the following additional provisions:

1. Regardless of the number of "Covered Autos", "Insureds", premiums paid, claims made or vehicles involved in the accident, the most we will pay for all damages resulting from any one accident in excess of the "Uninsured/Underinsured Motorist Retained Limit" is the limit of Excess Uninsured/Underinsured Motorists Coverage shown in the Schedule of this endorsement. The limit of Excess Uninsured/Underinsured Motorists Coverage is not subject to the Each Occurrence Limit (Liability Coverage) shown in the Declarations.
2. No one will be entitled to receive duplicate payments for the same elements of "Loss" under this endorsement and any other part of this Policy.

We will not make a duplicate payment under this coverage for any element of "Loss" for which payment has been made by or for anyone who is legally responsible.

III. **SECTION IV. EXCLUSIONS** is amended to include the following additional exclusions:

This insurance does not apply to:

1. Any claim settled by the "Insured" or any legal representative of the "Insured" with the owner or driver of an "Uninsured Motor Vehicle" without our prior written consent, if the settlement prejudices our right to recover payments. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph 2. of the definition of "Uninsured Motor Vehicle" in accordance with the procedure described in Paragraph I.3.b.
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
3. Any "Insured" using a vehicle without the expressed or implied permission of the owner or lessee.
4. Punitive or exemplary damages.
5. "Bodily Injury" or "Property Damage" sustained by:
  - a. An individual "Named Insured" while "Occupying" or when struck by any vehicle owned by that "Named Insured" that is not a "Covered Auto" for Uninsured/Underinsured Motorists Coverage under this endorsement;
  - b. Any "Family Member" while "Occupying" or when struck by any vehicle owned by that "Family Member" that is not a "Covered Auto" for Uninsured/Underinsured Motorists Coverage under this endorsement; or
  - c. Any "Family Member" while "Occupying" or when struck by any vehicle owned by the "Named Insured" that is insured for Uninsured/Underinsured Motorists Coverage under any other policy.
6. "Property Damage" to an "Auto" or to property contained in an "Auto" owned by the "Named Insured" which is not a "Covered Auto".
7. "Property Damage" for which the "Insured" has been or is entitled to be compensated by other property or physical damage insurance.
8. Any "Loss", cost, or expense payable under or resulting from any first party physical damage coverage; no-fault law; personal injury protection or auto medical payments coverage.

IV. For the purposes of the coverage afforded by this endorsement, **SECTION V. CONDITIONS** is amended as follows:

1. Paragraph **L. "Other Insurance"** is deleted in its entirety and replaced by the following:

**L. "Other Insurance"**

Any insurance we provide under this endorsement will be excess to the limits of any "Other Insurance" paid or available for payment to an "Insured", except other applicable Uninsured/Underinsured Motorists Coverage written to be excess of this Policy.

If there is other such applicable umbrella or excess Uninsured/Underinsured Motorists insurance, we will pay only our share of the "Loss". Our share is the proportion that our Limit of Insurance bears to the total of all applicable limits of insurance.

2. Paragraph **G. Duties in the Event of an "Occurrence", Claim or "Suit"** is amended to include the following additional provision:

Specifically as respects to any "Occurrence" which may result in an Uninsured/Underinsured Motorists claim for coverage under this Policy:

- a. A person seeking Uninsured/Underinsured Motorists coverage must promptly notify the police if a hit-and-run driver is involved, and
  - b. A person seeking Uninsured/Underinsured Motorists coverage must promptly send us copies of the legal papers if a "Suit" is brought.
  - c. A person seeking coverage from an insurer, owner or operator of a vehicle described in Paragraph 2. of the definition of "Uninsured Motor Vehicle" must also promptly notify us in writing of a tentative settlement between the "Insured" and the insurer and allow us to advance payment to that "Insured" in an amount necessary to equal the tentative settlement within thirty (30) days after receipt of notification to preserve our rights against the insurer, owner or operator of such vehicle.
3. Paragraph **O. Transfer of Rights of Recovery** is amended to include the following additional provision:

If we make any payment and the "Insured" recovers from another party, the "Insured" shall hold the proceeds in trust for us and pay us back the amount we have paid.

We will be entitled to recovery only after the "Insured" has been fully compensated for the "Loss".

If the "Insured" settles with or recovers against any person, any reimbursement due to us under this section shall be reduced by deducting a fair portion of all reasonable expenses of recovery incurred in effecting the settlement or recovery. The expenses of recovery shall be apportioned between the parties as their interests appear at the time of the settlement or recovery.

Our rights do not apply under this provision with respect to damages caused by an accident with a vehicle described in Paragraph 2. of the definition of "Uninsured Motor Vehicle" if we:

- a. Have been given prompt notice of a tentative settlement between an "Insured" and the insurer of a vehicle described in Paragraph 2. of the definition of "Uninsured Motor Vehicle"; and
- b. Fail to advance payment to the "Insured" in an amount equal to the tentative settlement within thirty (30) days after receipt of notification.

If we advance payment to the "Insured" in an amount necessary to equal the tentative settlement within thirty (30) days after receipt of notification:

- a. That payment will be separate from any amount the "Insured" is entitled to recover under the provisions of Excess Uninsured/Underinsured Motorists Coverage; and
  - b. We also have a right to recover the advanced payment.
4. For the purposes of the coverage afforded by this endorsement, **SECTION V. CONDITIONS** is amended to include the following additional conditions:

**A. Arbitration**

1. If we and an "Insured" disagree whether the "Insured" is legally entitled to recover damages from the owner or driver of an "Uninsured Motor Vehicle" or do not agree as to the amount of damages that are recoverable by that "Insured", then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within thirty (30) days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.
2. Unless both parties agree otherwise, arbitration will take place in the county in which the "Insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

However, this Arbitration Condition does not apply to the following state(s): <insert any additional state(s)>

**B. Conformance to Vermont Uninsured Motorist and/or Underinsured Motorist Law**

To the extent any term of this Policy conflicts with any applicable Vermont Uninsured/Underinsured Motorists law, the term shall be deemed amended so as to conform to minimum requirements of the Vermont Uninsured/Underinsured Motorists law. However, under no such circumstance shall any term be amended to be broader than the minimum requirements of the Vermont Uninsured/Underinsured Motorists law.

- V. For the purposes of the coverage afforded by this endorsement, **SECTION VI. DEFINITIONS** is amended to include the following additional definitions:

- A.** "Covered auto" means only an "Auto" to which "Scheduled Underlying Insurance" applies.
- B.** "Family member" means a person related to an individual "Named Insured" by blood, marriage or adoption or a domestic partner, who is a resident of such "Named Insured's" household, including a ward or foster child.
- C.** "Occupying" and/or "Occupied" means in, upon, getting in, on, out or off.
- D.** "Uninsured Motor Vehicle" means a land motor vehicle or trailer:
  1. For which no liability bond or policy applies at the time of an accident;
  2. That is an underinsured motor vehicle. An underinsured motor vehicle is a land motor vehicle or trailer for which the sum of the limits of all liability bonds or policies at the time of an accident provides at least the amounts required by the applicable law where a "Covered Auto" is principally garaged but:
    - a) That sum is less than the sum of the limits of all Uninsured/Underinsured Motorists Coverage applicable to the "Insured"; or

- b) The available liability insurance has been reduced by payments to others injured in the accident to an amount which is less than the limits of this coverage applicable to the "Insured".
- 3. For which an insuring or bonding company denies coverage or is or becomes insolvent within one (1) year of the date of the accident; or
- 4. Which is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must:
  - a) Hit an "Insured", a "Covered Auto", a vehicle an "Insured" is "Occupying" or the property of an "Insured"; or
  - b) Cause an accident resulting in "Bodily Injury" to an "Insured" or "Property Damage" without hitting an "Insured", a "Covered Auto" or a vehicle an "Insured" is "Occupying". We will only accept competent evidence which may include the testimony, under oath, of a person making claim under this or any similar coverage.

However, "Uninsured Motor Vehicle" does not include any vehicle:

- 1. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or who becomes insolvent and cannot provide the amounts required by that motor vehicle law;
- 2. Owned by a governmental unit or agency while being used within the scope of permission of that governmental unit or agency; or
- 3. Designed for use mainly off public roads while not on public roads.

**E.** "Uninsured/Underinsured Motorist Retained Limit" means the limit that must be paid before we will make any payment under the terms of this endorsement and it must be equal to the total applicable "Auto" liability limit of "Scheduled Underlying Insurance" or the "Auto" liability Retained Limit as listed on the Schedule of Retained Limits, whichever is greater.

**VI.** For the purposes of the coverage afforded by this endorsement, **SECTION VI. DEFINITIONS** is amended to delete in their entirety definitions **F.**, **H.** and **Q.** and replace them with the following:

**F.** "Insured" means if the "Named Insured" is designated in the Declarations as:

- 1. An individual, then only the following are "Insureds":
  - a. The "Named Insured" and any "Family Members".
  - b. Anyone else "Occupying" a "Covered Auto" or a temporary substitute for a "Covered Auto". The "Covered Auto" must be out of service because of its breakdown, repair, servicing, "Loss" or destruction.
  - c. Anyone for damages he or she is entitled to recover because of "Bodily Injury" sustained by another "Insured".
- 2. A partnership, limited liability company, corporation or any other form of organization, then the following are "Insureds":
  - a. Anyone "Occupying" a "Covered Auto" or a temporary substitute for a "Covered Auto". The "Covered Auto" must be out of service because of its breakdown, repair, servicing, "Loss" or destruction.
  - b. Anyone for damages he or she is entitled to recover because of "Bodily Injury" sustained by another "Insured".



**H.** “Loss” means those sums paid by us under the Vermont Excess Uninsured/Underinsured Motorists Coverage.

**Q.** “Property damage” means injury to or destruction of property of an “Insured”.

All other terms, definitions, conditions and exclusions of this Policy remain unchanged.

|                             |                                                                             |                        |                            |
|-----------------------------|-----------------------------------------------------------------------------|------------------------|----------------------------|
| <b>State:</b>               | District of Columbia                                                        | <b>Filing Company:</b> | XL Insurance America, Inc. |
| <b>TOI/Sub-TOI:</b>         | 17.0 Other Liability-Occ/Claims Made/17.0020 Commercial Umbrella and Excess |                        |                            |
| <b>Product Name:</b>        | Umbrella/Excess                                                             |                        |                            |
| <b>Project Name/Number:</b> | Revision of Vermont Excess UM/UIM Endorsement/16WX-XW-UM03-MU-DC            |                        |                            |

## Supporting Document Schedules

|                         |                         |
|-------------------------|-------------------------|
| <b>Bypassed - Item:</b> | Readability Certificate |
| <b>Bypass Reason:</b>   | N/A                     |
| <b>Attachment(s):</b>   |                         |
| <b>Item Status:</b>     |                         |
| <b>Status Date:</b>     |                         |

|                         |                          |
|-------------------------|--------------------------|
| <b>Bypassed - Item:</b> | Consulting Authorization |
| <b>Bypass Reason:</b>   | N/A                      |
| <b>Attachment(s):</b>   |                          |
| <b>Item Status:</b>     |                          |
| <b>Status Date:</b>     |                          |

|                         |                         |
|-------------------------|-------------------------|
| <b>Bypassed - Item:</b> | Copy of Trust Agreement |
| <b>Bypass Reason:</b>   | N/A                     |
| <b>Attachment(s):</b>   |                         |
| <b>Item Status:</b>     |                         |
| <b>Status Date:</b>     |                         |

|                         |                                         |
|-------------------------|-----------------------------------------|
| <b>Bypassed - Item:</b> | Expedited SERFF Filing Transmittal Form |
| <b>Bypass Reason:</b>   | N/A                                     |
| <b>Attachment(s):</b>   |                                         |
| <b>Item Status:</b>     |                                         |
| <b>Status Date:</b>     |                                         |

|                          |                           |
|--------------------------|---------------------------|
| <b>Satisfied - Item:</b> | Forms Directory           |
| <b>Comments:</b>         |                           |
| <b>Attachment(s):</b>    | Forms Directory - New.pdf |
| <b>Item Status:</b>      |                           |
| <b>Status Date:</b>      |                           |

| Form number w/ edition date | Form Title                                               | Form Description                                                             | Form Type   | Mandatory (M) or Optional (O) | Replaces Form | Restrict (R), Broaden (B) or Clarify (C) | Form Usage- Election per Insured's Request or U/W Decision | Rate Impact (Y/N) |
|-----------------------------|----------------------------------------------------------|------------------------------------------------------------------------------|-------------|-------------------------------|---------------|------------------------------------------|------------------------------------------------------------|-------------------|
| CUU 491 0916                | Vermont Excess Uninsured/Underinsured Motorists Coverage | This endorsement satisfies Vermont Uninsured Motorists coverage requirements | Endorsement | O                             | New           | B                                        | U/W Decision                                               | N                 |